

**MISSOURI GENERAL ASSEMBLY**

**REPORT OF THE  
JOINT INTERIM COMMITTEE ON  
HAZARDOUS WASTE**

**Senator Joe Maxwell, Co-Chair**  
District 18

**Representative Bill L. Ransdall, Co-Chair**  
District 148

**Senator Wayne Goode**  
District 13

**Representative Joan M. Barry**  
District 100

**Senator James L. Mathewson**  
District 21

**Representative John E. Griesheimer**  
District 109

**Senator Walter H. Mueller, Jr.**  
District 15

**Representative Gary Marble**  
District 130

**Senator John T. Russell**  
District 33

**Representative Gary Wiggins**  
District 8

**Committee Staff:**

Terry Finger, Senior Legislative Analyst, House Research Office  
Brent McGinty, Budget Research Analyst, Senate Appropriations Committee  
Otto Fajen, Senior Research Analyst, Senate Research Office  
Julie Miller, Committee Secretary

January, 2000





# Missouri General Assembly

January, 2000

The Honorable Edward E. Quick  
President Pro Tem  
Missouri Senate  
State Capitol, Room 326  
Jefferson City, Missouri 65101

The Honorable Steve Gaw  
Speaker  
Missouri House of Representatives  
State Capitol, Room 308  
Jefferson City, Missouri 65101

Dear Mr. President and Mr. Speaker:

Pursuant to your charge and House Concurrent Resolution 28, your Joint Interim Committee on Hazardous Waste gathered information from a variety of sources during the summer and fall. The committee heard testimony from the Department of Natural Resources on October 12, 1999, with concluding remarks on December 10, 1999, and visited hazardous waste sites and management facilities around the state on October 12 to 14, 1999, and on November 29 to December 1, 1999. The committee also received public testimony at a hearing in Jefferson City on December 10, 1999, and accepted written testimony from individuals who could not attend the hearing.

There is widespread interest in hazardous waste management in the state. The committee expresses its gratitude to the Department of Natural Resources and all the citizens and businesses who provided vital information and assistance.

The committee recognizes that proper hazardous waste management in Missouri is vital to the protection of public health and the environment, and applauds the excellent cooperative efforts of industry, citizens, and government in this regard. We have formulated several recommendations that could result in further improvements and the avoidance of a funding crisis in the Hazardous Waste Program of the Department of Natural Resources. Enclosed herein is our report.

Sincerely,

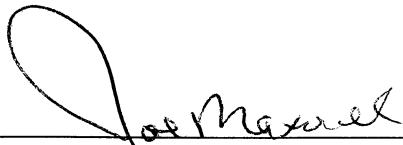
A handwritten signature in black ink, reading "Joe Maxwell".

Senator Joe Maxwell, Co-Chair

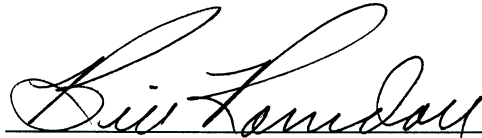
A handwritten signature in black ink, reading "Bill Ransdall".

Representative Bill Ransdall, Co-Chair





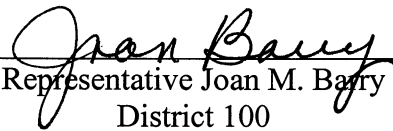
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District 18



Representative Bill L. Ransdall, Co-Chair  
District 148



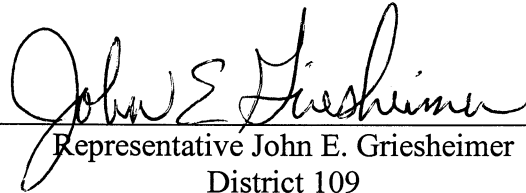
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District 100



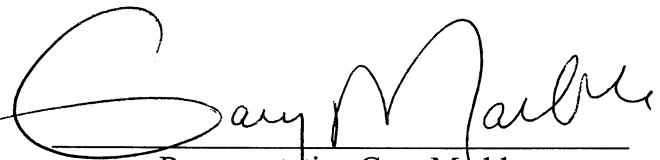
Senator James L. Mathewson  
District 21



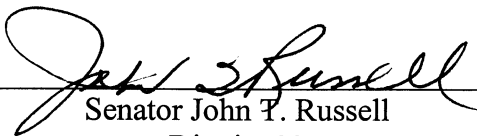
Representative John E. Griesheimer  
District 109



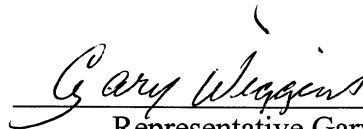
Senator Walter H. Mueller, Jr.  
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Representative Gary Marble  
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District 8



# INTRODUCTION

Since 1994, the Missouri Department of Natural Resources has recognized the need to revise the fee structure that funds hazardous waste management activities in the state. The fees, originally developed in the 1970's, appeared outmoded and were not generating sufficient revenue to meet funding needs for effective management of currently generated waste and for prompt remediation of contaminated sites. The department convened a work group of representatives from industry, citizen organizations, and state government to develop a more effective fee structure. The group developed proposed legislative changes filed as HB 151 and SB 145 in 1997, and SB 542 in 1998. None of these bills were successful, and two of the most important fees were set to expire at the end of 1999. During the 1999 legislative session, HB 524 and SB 353 sought to extend the sunset dates on those fees for several years to allow more time for the affected parties to develop an agreement on a new fee structure. SB 353 was passed, and HCR 28 was also approved. HCR 28 called for the appointment a joint interim committee to study hazardous waste management in the state.

In response to the charge of 1999 House Concurrent Resolution 28 (Appendix A), the Honorable Edward E. Quick, President Pro Tem of the Missouri Senate, and the Honorable Steve Gaw, Speaker of the Missouri House of Representatives, appointed a Joint Interim Committee to study issues related to the generation, transport, storage, and disposal of hazardous waste, and to examine factors related to the funding of hazardous waste regulation within state government. Members of the committee were Senator Joe Maxwell, Co-Chair (D-18, Mexico), Representative Bill Ransdall, Co-Chair (D-148, Waynesville), Senator Wayne Goode (D-13, St. Louis), Senator James L. Mathewson (D-21, Sedalia), Senator Walter H. Mueller, Jr. (R-15, St. Louis), Senator John T. Russell (R-33, Lebanon), Representative Joan M. Barry (D-100, St. Louis), Representative John E. Griesheimer (R-109, Washington), Representative Gary Marble (R-130, Neosho), and Representative Gary Wiggins (D-8, New Cambria). This report includes summaries of testimony received from the Department of Natural Resources and the public, descriptions of the site visits made by the committee, and the committee's recommendations.

# **SUMMARY OF DEPARTMENTAL TESTIMONY**

The committee conducted a hearing on October 12, 1999, to hear testimony from the Missouri Department of Natural Resources. Stephen Mahfood, Department Director, John Young, Director of the Division of Environmental Quality, and Cindy Kemper, Director of the Hazardous Waste Program testified. Ms. Kemper also presented concluding remarks after the committee received public testimony at a hearing on December 10, 1999.

## **INTRODUCTION**

The mission of the Hazardous Waste Program of the Missouri Department of Natural Resources (DNR) is to protect human health and the environment by ensuring responsible management of hazardous waste and cleaning up releases of hazardous substances. Authority for the program's activities is provided by federal and state statutes. At the federal level, management of currently generated waste is regulated by Subtitle C of the Resource Conservation and Recovery Act (RCRA), while remediation of uncontrolled and abandoned contaminated sites is regulated by the Comprehensive Environmental Response, Compensation, and Liability (Superfund) Act of 1980 (CERCLA). RCRA encourages delegation of primary regulatory authority to the states, and Missouri's program has been approved for such primacy. CERCLA encourages states to oversee site remediation work, and Missouri has several cleanup programs in operation. Missouri Hazardous Waste Law (Sections 260.350 to 260.575, RSMo) provides for state regulation of management and cleanup activities; rulemaking authority is vested in a 7-member Hazardous Waste Management Commission.

## **MANAGEMENT OF CURRENTLY GENERATED WASTE**

The basic premise of the management of currently generated waste is to oversee all waste-related activities from the point of generation to the point of treatment and disposal. Waste reduction is also encouraged. State activities related to this management include:

***Registration of Generators and Tracking Waste*** -- In 1998, there were 558 large-quantity generators and 3531 small quantity generators in the state; collectively they produced 293,498 metric tons of hazardous waste. Over 97% of this waste was produced by the large-quantity generators. Approximately 77% of Missouri-generated waste was disposed of in Missouri; the remaining 23% was shipped out of state. Additionally, Missouri received 203,317 metric tons of hazardous waste from 957 large-quantity and 1651 small-quantity out-of-state generators. Approximately 73% of the imported waste came from 53 fuel blending operations that mix hazardous wastes to produce fuel with high energy content.

***Manifesting and Transporter Licensing*** -- In 1999, there were 339 licensed hazardous waste transporters in the state, with 8127 licensed vehicles. Only a portion of these vehicles are located in Missouri at any given time. DNR is only authorized to regulate the transportation of



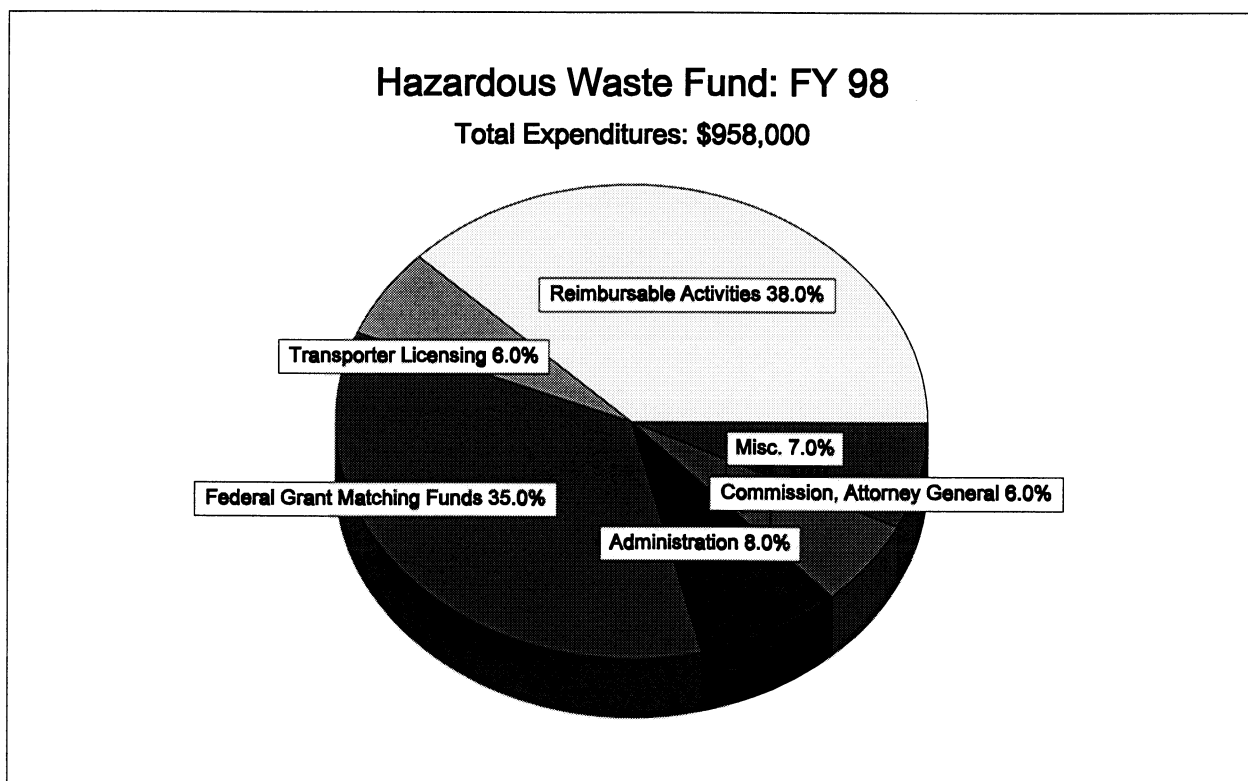
hazardous waste, and not gasoline, acids, and other hazardous materials. Many of these materials become hazardous waste when spilled, and are then subject to hazardous waste management, transport, and disposal requirements

***Permitting and Certifying Facilities*** -- Permits are required to treat, store, or dispose of hazardous waste, and certification is required to recycle waste. In 1999, there were 96 treatment, storage and disposal facilities in the state, of which 68 were inactive and involved with on-going site assessments or cleanups. Of the 28 active facilities, 12 only treat their own wastes on site, and 16 are commercial facilities that accept waste generated off site. There were also 39 certified resource recovery facilities in the state.

***Overseeing Corrective Actions*** -- Regulated facilities must address past contamination. There are currently 96 facilities in Missouri that are subject to corrective actions.

***Ensuring Compliance*** -- Compliance with state and federal requirements is ensured through inspections and enforcement actions. The program performed 444 facility inspections and 46 transporter inspections in FY 99.

Management activities are funded from the Hazardous Waste Fund established in Section 260.391, RSMo, some general revenue, and federal funds. Of the \$4,544,107 spent on management activities in FY 98, 72% was federal funding. A total of \$958,000 was expended from the Hazardous Waste Fund as follows:



Reimbursable activities include voluntary cleanup program oversight, commercial facility inspections, and permit reviews. Federal grant matching funds support generator registration, waste manifesting, facility permitting, corrective actions, and compliance activities. The Attorney General serves as legal counsel to the Hazardous Waste Management Commission.

Staff resources for waste management activities include 8.0 FTE for registering generators and tracking waste; 2.7 FTE for manifesting and transporter licensing; 13.5 FTE for permitting and certifying facilities; 15.4 FTE for corrective actions; 28.4 FTE for compliance activities; and 7.9 FTE for program administration; for a total of 75.8 FTE. The current funding shortfall prevents the program from filling 11 positions involving management activities.

## **REMEDICATION OF CONTAMINATED SITES**

The basic premise of remediation of contaminated sites is to rapidly address the contamination to protect public health and the environment. Efforts are made to have the responsible party pay for the cleanup; when no responsible party can be found, public funds are available for remediation work. State activities related to the cleanup of contaminated sites include:

***Responding to Emergencies*** -- Situations requiring emergency responses include transportation accidents, methamphetamine lab investigations, and location of abandoned chemical drums. A state reporting hotline is maintained. There were 2232 spills reported to the hotline in FY 99, of which 609 required on-site response. Abatement is usually coordinated with local emergency management officials.

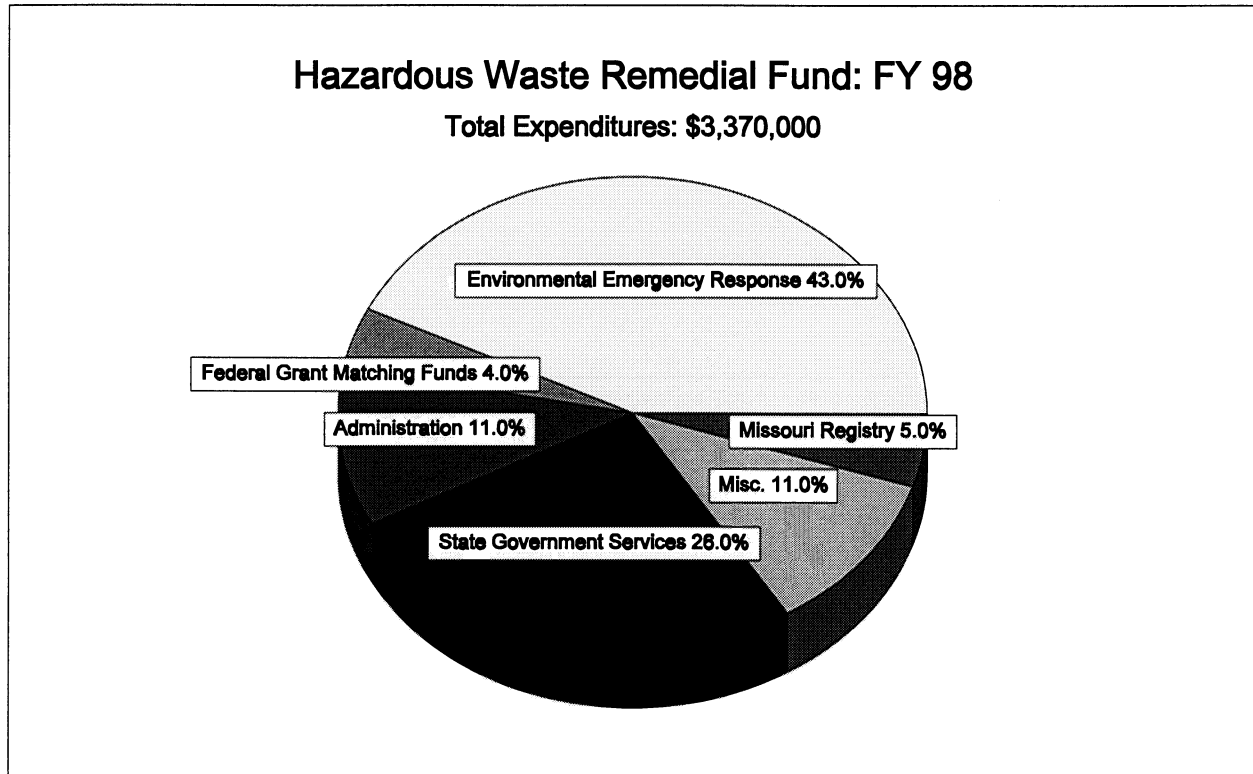
***Identifying and Investigating Releases*** -- When the program learns about a possible release, the site is investigated to determine if remediation is needed. Within the last 5 years, 313 sites have been assessed.

***Overseeing Cleanups*** -- Remediation work occurs under a variety of programs, including work funded by responsible parties, the state Voluntary Cleanup Program (Sections 260.565 to 260.575, RSMo), and federally funded activities. DNR or EPA oversee all cleanups. To date, 180 cleanups have been completed in the state, and another 90 are currently underway. The department estimates that there are at least 2300 additional sites that will require attention. Many of these involve groundwater contamination and may take 50 or more years to address.

***Maintaining a List of Contaminated Sites*** -- The department maintains the Missouri Registry, a list of sites known to be contaminated with hazardous waste (Sections 260.440 to 260.470, RSMo). By placing restrictions on deeds and requiring buyer notification, this list protects property buyers from inadvertently purchasing a contaminated site. There are currently 60 sites on the Registry.

Remediation activities are funded from the Hazardous Waste Remedial Fund established in Section 260.480, RSMo, and federal funds. Of the \$5,175,241 spent on remediation activities

in FY 98, 35% was federal funding. A total of \$3,370,000 was expended from the Hazardous Waste Remedial Fund as follows:



State government services include payments to the DNR Division of Geology and Land Survey for site assessments, monitoring wells, and geologic data; the Department of Health for health assessments at Registry sites, private well sampling around waste sites, site investigation reviews, and community health profiles in areas near active waste-generating facilities; and the Office of the Attorney General for enforcement activities, cost recoveries and other litigation. Federal grant matching funds support remediation activities, including those at Superfund sites. To date, over \$93 million in public funds has been spent on Superfund sites in Missouri, of which approximately 90% were federal monies.

Staff resources for remediation activities include 19.0 FTE for emergency response; 11.4 FTE for identifying and investigating releases; 17.2 FTE for overseeing cleanups; 4.9 FTE for maintaining the Registry; and 6.4 FTE for administration; for a total of 58.9 FTE. The current funding shortfall prevents the program from filling 3 positions involving remediation activities.

## FUNDING ISSUES

The Hazardous Waste Fund and the Hazardous Waste Remedial Fund receive revenue from a variety of sources. Receipts may vary considerably from year to year because of periodic receipt of cost reimbursements and settlements. For the Hazardous Waste Fund, payments

include:

**Transporter License Fees** -- These fees are assessed on transporters of hazardous waste for up to \$100 per vehicle per year (Section 260.395, RSMo). There is a \$15,000 per company cap in state regulations; this affects only one company. Railroads pay \$100 per year.

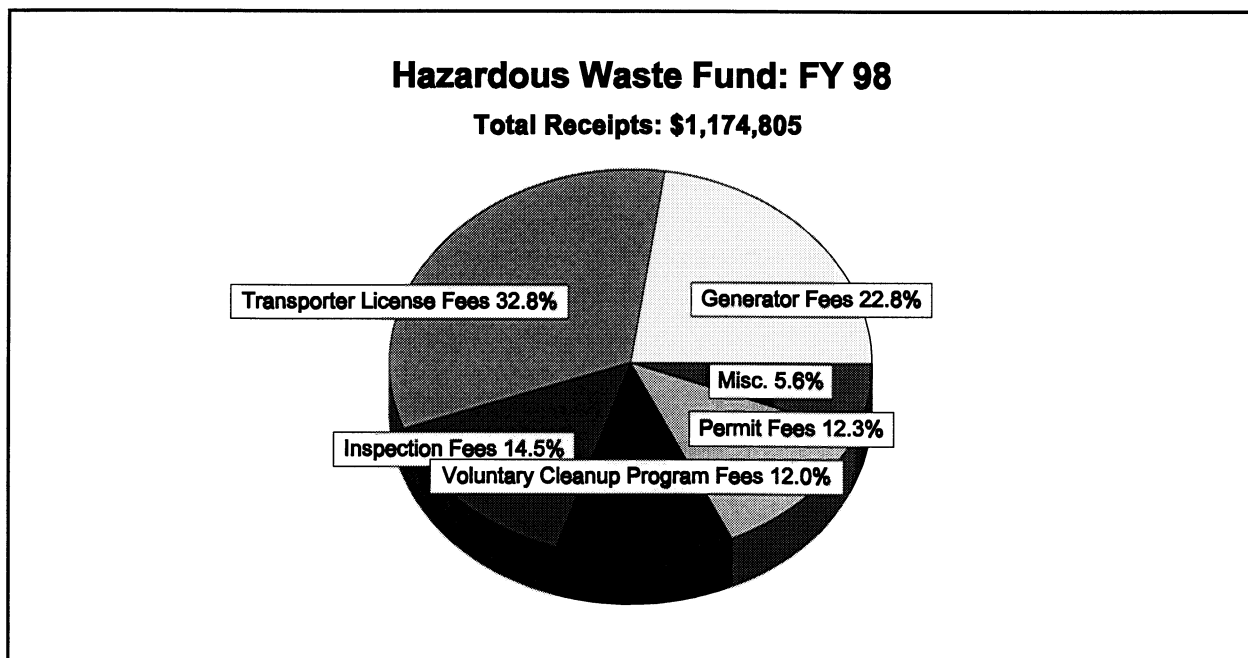
**Generator Fees** -- These fees are assessed at \$1 per ton of generated waste, up to a maximum of \$10,000 per generator. Small-quantity generators producing less than 10 metric tons per year are exempt (Section 260.380, RSMo).

**Inspection Fees** -- These fees cover the costs of compliance inspections at treatment, storage, and disposal facilities and are capped at \$12,000 per year per facility (Section 260.370, RSMo).

**Permit, Engineering Review, and Certification Fees** -- These fees are assessed to cover the costs of permit reviews and certifications. Permit costs are \$1,000 per year for 10 years, and the department is authorized to recover the costs of engineering reviews associated with permits (Section 260.395, RSMo). Certification fees of \$100 to \$500 every 2 years are established in regulation, with no authority for recovery of engineering review costs.

**Voluntary Cleanup Program Fees** -- Participants in the Voluntary Cleanup Program reimburse the fund for oversight expenses and a \$200 application fee (Sections 260.565 to 260.575, RSMo).

A landfill fee equaling 2% of disposal charges is also authorized in Section 260.390, RSMo, but because there are no hazardous waste landfills in the state, this fee does not generate revenue. A total of \$1,174,805 was received by the Hazardous Waste Fund in FY 98:



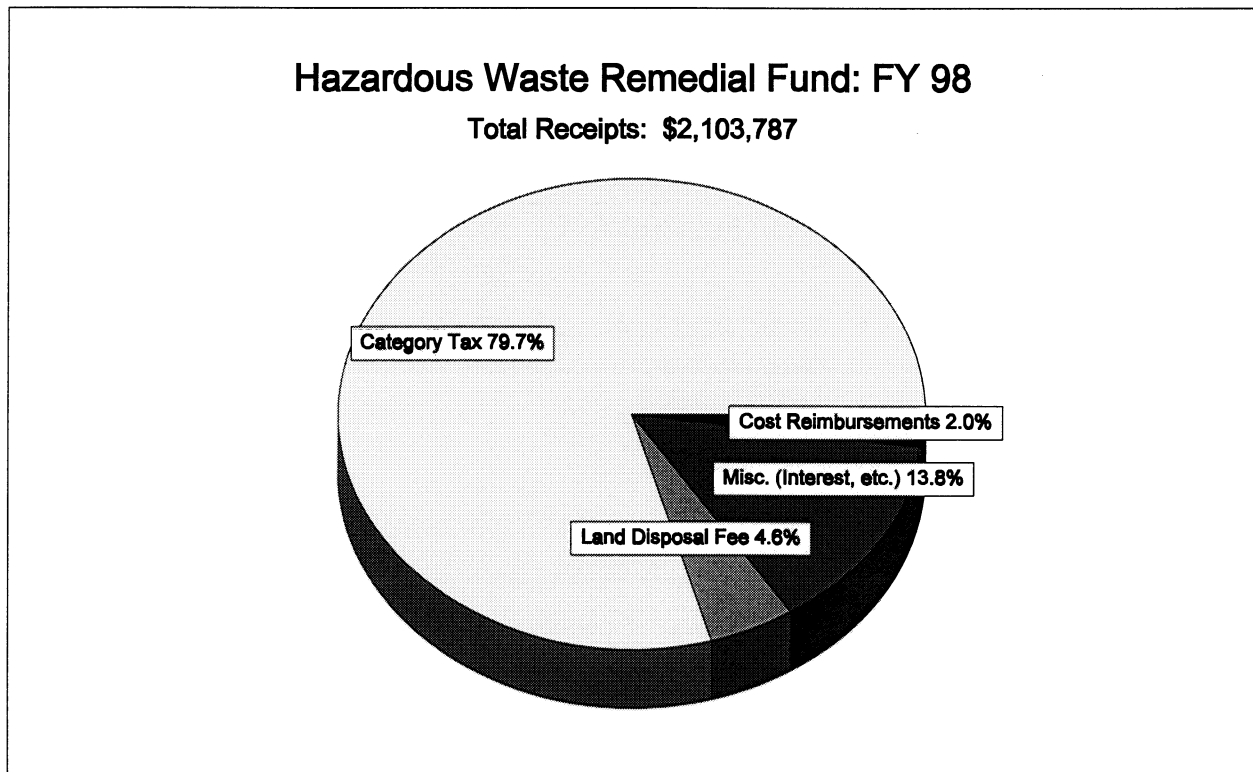
For the Hazardous Waste Remedial Fund, payments include:

**Category Tax** -- This tax is based the amount and disposal method of waste generated, and is scaled to achieve a target of \$1.5 million in receipts annually. There is a \$50,000 per company cap. The minimum category tax that small generators pay is \$10. Waste blended as high energy content fuel is exempt from the category tax, as is waste from remedial activities, smelter slag, and waste generated by political subdivisions (Section 260.479, RSMo). This tax is currently set to expire on January 1, 2004.

**Land Disposal Fee** -- This fee is assessed at \$25 per metric ton for waste disposed in soil and \$2 per ton for waste transferred off site. Small-quantity generators that produce less than 10 metric tons per year are exempt, as is disposal of remediation waste (Section 260.475, RSMo). This fee is also set to expire on January 1, 2004.

**Cost Reimbursements** -- DNR is authorized to seek reimbursements for costs of emergency response and remediation work from responsible parties (Sections 260.480 and 260.530, RSMo).

A total of \$2,103,787 was received by the Hazardous Waste Remedial Fund in FY 98:



Revenue received by both funds is not adequate to cover current costs. Federal grants are static, and other revenue sources are flat or declining. At the same time, state costs are increasing with inflation and the number and complexity of sites to be cleaned up continues to rise. The department estimates that there are over 2300 potentially contaminated sites in the state, and a significant percentage of these will require difficult groundwater remediation techniques that make take 50 or more years to complete.

Projected needs and revenue indicate shortfalls in FY 01 for both funds:

<b>Fund</b>	<b>Projected Needs for FY 01</b>	<b>Projected Revenue for FY 01</b>	<b>Projected Revenue Shortfall</b>
<b>Hazardous Waste Fund</b>	\$2.3 million	\$1.1 million	\$1.2 million
<b>Hazardous Waste Remedial Fund</b>	\$4.5 million	\$1.8 million	\$2.7 million
<b>Total</b>	<b>\$6.8 million</b>	<b>\$2.9 million</b>	<b>\$3.9 million</b>

Shortfalls in funding may result in reduced ability of the program to protect human health and the environment. With staffing cuts, there will be longer permit turnaround times, longer time periods needed for initiation and completion of remediation work, and, as a result, delayed property transactions and redevelopment. The state could also default on its Superfund contract obligations to provide matching funds. Ultimately, funding shortfalls could result in loss of state authority to be the primary regulator of hazardous waste management, resulting in direct regulation by the federal government through EPA.

### **CONCLUDING REMARKS**

DNR has discussed internally several concepts related to fee restructuring and funding for the Hazardous Waste Program. Overall, there is a desire for the fee structure to exhibit:

- ▶ ***Equitability:*** are the recipients of services the same as the sources of revenue that pay for those services?
- ▶ ***Simplicity:*** is the fee structure and collection method simple for both the regulated industries and DNR?

With regard to these goals, the following central issues have emerged from discussions. The department considers this list not a series of recommendations, but a list of central issues on which further discussions of changes in the fee structure should be based.

### ***Consolidation of the Hazardous Waste Fund and the Hazardous Waste Remedial Fund***

The department recognizes that there are several areas where there is poor alignment between those parties paying fees and the services that those fees provide. Consolidation of the two funds may make it easier to align services with those paying fees. Fund consolidation may also simplify fee collection and reporting requirements.

### ***Registration of Generators Not Currently Producing Waste***

Many small businesses that are not currently generating waste register as active generators for their convenience and flexibility. The department receives no fee revenue from these registrations, yet it incurs administrative costs. Allowing DNR to charge a minimal fee to cover registration costs may be appropriate.

### ***Exemptions for Small Quantity Waste Generators***

Current statutes exempt small generators from fee payments to the Hazardous Waste Fund if they generate less than 10 tons of waste per year. Also, the minimum category tax that small generators pay to the Hazardous Waste Remedial Fund is \$10. These payments are not sufficient to cover administrative costs. Allowing the program to increase minimal fees for small generators to cover costs may be appropriate.

### ***Establishment of a Generator-based or a Disposal-based Fee Structure***

The current fee structure, which assesses quantity-based fees on many in-state and out-of-state hazardous waste generators, is cumbersome for both the generators and the department. A potential way to simplify the fee structure would be to assess quantity-based fees at treatment and disposal facilities. This would involve a much smaller number of facilities, all would be within the state, and the treatment and disposal facilities could pass the fee costs on to their customers. This system would also eliminate the in-state/out-of-state fuel blender issue, but would still require the department to collect fees directly from Missouri facilities that ship their generated waste out of state.

### ***Cost Recovery for Oversight and Monitoring Activities***

Current statutes authorize the department to charge permit fees and permit review fees to cover expenses related to administration of the permit program, but do not allow charging for other work required at regulated hazardous waste facilities. Changing the law to allow such charges would significantly increase funding for the Hazardous Waste Program and would improve alignment of those paying fees with those receiving services.

### ***Transporter License Fees***

Current transporter license fees are \$100 per vehicle, and do not reflect waste volumes or transport distances. This may not be appropriate with regard to federal interstate commerce provisions. There may also be a problem with regard to funding emergency response activities. Federal law only allows transporter license fees to be used for permit costs and emergency response activities. Currently, state statutes place these fees in the Hazardous Waste Fund, but emergency response activities are paid from the Hazardous Waste Remedial Fund.

### ***Fee Adjustments for Inflation***

Current statutes do not allow fees to be adjusted for inflation. Some other state fees are adjusted to changes in the Consumer Price Index. Such an adjustment may be appropriate for hazardous waste fees because the cost of services funded by these fees is affected by inflation.

## **SUMMARY OF SITE VISITS**

The committee toured six facilities and remediation sites in the eastern portion of the state on October 12, 13, and 14, 1999, and seven localities in the western portion of the state on November 29, 30, and December 1, 1999 (see Appendix B).

The committee visited two cement kilns that use hazardous waste as supplemental fuel. Continental Cement Company in Hannibal and Holnam, Inc., in Clarksville both burn hazardous waste to reduce coal consumption. The technique recovers the energy content of the waste and is important in maintaining the economic viability of the kilns. Continental Cement obtains its fuel from many different suppliers, while Holnam has a contractual arrangement with Safety-Kleen Systems, Inc., to provide its fuel. Emissions at both facilities are monitored continuously.

The committee also visited several businesses that generate hazardous waste. American Cyanamid Company in Palmyra produces herbicides and pesticides used in agriculture. It is considered a large quantity waste generator, and has programs in place to recycle and reuse material to minimize waste production. Remaining wastes are treated in four on-site incinerators. American Cyanamid also has established safety programs, on-site emergency response equipment, and a close working relationship with local emergency planning officials. EFCO Corporation in Monett manufactures aluminum windows and storefronts. It is also considered a large quantity waste generator, with most waste coming from its painting and metal finishing operations. Loren Cook Company in Springfield fabricates custom air-moving equipment, and is a considered small quantity waste generator. Waste has been substantially reduced through replacement of liquid painting with a waste-free powder coat process.

To observe different types of remediation work with various funding mechanisms, the committee also visited a number of contaminated sites. The former St. Louis Arena property, with possible lead, asbestos, mercury, PCB (polychlorinated biphenyls), and heating oil contamination, is being redeveloped through the Department of Economic Development's Brownfields Program. Tax credits will equal remediation costs, and oversight through DNR's Voluntary Cleanup Program is required. The state-owned Hubert Wheeler School site in St. Louis was contaminated with carcinogenic PAHs (polycyclic aromatic hydrocarbons) from past use of the property for waste disposal. As a result, the school was closed in 1995. Remediation is currently under way, with oversight by DNR and the Department of Health. The project is funded through an appropriation to the Office of Administration. There are plans to redevelop the site for state offices.



Soil and groundwater at the former TRW, Inc., facility in St. Louis were contaminated with various compounds, including TCE (trichloroethylene). Contaminated soil has been removed, and groundwater is currently being treated to remove oil and volatile compounds. Groundwater contaminated with TCE is also present on and south of the FAG Bearings property in Newton County near Joplin. Affected residents of the villages of Silver Creek and Saginaw were first supplied with bottled water; later a public drinking water system was constructed. After extensive negotiations, costs for these remedial actions were paid by FAG Bearings, a potentially responsible party. FAG is currently developing a plan to remediate the contamination on their property, and a feasibility study of remedial actions for the groundwater contamination will begin soon. Contaminated soil and groundwater are also being remediated on the International Paper Company property in Joplin. Former use of surface impoundments for creosote and pentachlorophenol recovery caused the contamination. A pumping system is being used to maintain hydraulic control of the groundwater. Heavily contaminated sludges and soils were removed and incinerated; remaining soils are being bioremediated in roofed landfarms. There are plans to cap the landfarms and construct buildings using the existing roofs.

The committee toured two contaminated sites that are receiving federal Superfund moneys. The Jasper County National Priorities List Site in Joplin is extensively contaminated with lead and other heavy metals from past mining activities. EPA and DNR are overseeing remedial activities, including removal of contaminated soil from over 2,000 residential yards and supplying bottled water for residents with contaminated wells. Construction of a drinking water system is planned, as is restoration of approximately 7,000 acres of mined lands and affected streams. Potentially responsible parties have funded some of the remediation work; other costs are paid with federal and state matching funds. A community advisory group has been very active during the remediation process. The Pools Prairie Site near Neosho includes two areas where residential wells are contaminated with TCE. Locations on the former Camp Crowder facility have been identified as sources of the contamination. The U.S. Army Corps of Engineers has been providing bottled water to residents since 1995, and a drinking water supply system is being constructed. Interim measures have been implemented to reduce further contaminant migration while evaluations of remedial actions are being conducted. A community advisory group has also been very active during this project.

Lastly, the committee visited a site near Lebanon where nitric acid spilled from a transport truck along Interstate Highway 44. Emergency response was coordinated by DNR, with involvement of the Lebanon Rural Fire Protection District, the Laclede County Local Emergency Planning Committee, the Fort Leonard Wood Hazardous Materials Response Team, the Camden County Hazardous Materials Response Unit, the Department of Transportation, and the Highway Patrol. Remediation was accomplished by state hazardous materials emergency response contractors, Haz-Mat Response and Sunbelt Environmental Services. Sunbelt provided the committee with a demonstration of their response equipment.

## SUMMARY OF PUBLIC TESTIMONY

The committee conducted a hearing on December 10, 1999, to hear public testimony. Written testimony was also accepted. The committee received oral or written testimony from 14 individuals, including representatives from state government, a citizens group, and many facets of the hazardous waste industry (see Appendix C).

Witnesses universally recognized the need to provide adequate oversight of hazardous waste management activities and sufficient funding for the DNR Hazardous Waste Program to function effectively. Representatives from the Associated General Contractors - Eastern Missouri Laborers' Joint Training Fund, City Utilities of Springfield, and the Watershed Committee of the Ozarks particularly stressed the importance of sound waste management, effective emergency response, and appropriate remediation work carried out by trained personnel. Representatives from the Office of the Missouri Attorney General and the Department of Health explained their respective department's use of state hazardous waste fee revenue and how their activities function in recovering costs from potentially responsible parties and in protecting public health.

There were, however, many opinions on how adequate funding should be achieved. Several witnesses, including representatives from Associated Industries of Missouri, CP Recycling, Inc., and the Watershed Committee of the Ozarks, explained how hazardous waste management has changed since the original funding mechanism was put in place, and will continue to change in the future. Originally, hazardous waste fees were intended to provide revenue for emergency response and remediation, and also to be an incentive for waste reduction, in that the fee rate increases with the amount of waste generated. If hazardous waste streams are reduced significantly, basing program funding on waste generation may not provide adequate revenue. Further, representatives from Lone Star Industries, Inc., Continental Cement Company, Holnam, Inc., Safety-Kleen Systems, Inc., and CP Recycling, Inc., noted that cement kilns have emerged recently as an important entity in the treatment of waste. The kilns are not only important in disposing of waste in an environmentally sound manner, but the fuel displacement provided by the waste is important for the continued economic viability of the kilns. These witnesses stated that any restructuring of the current fee system should reflect any projected future changes in hazardous waste management activities.

Witnesses from Lone Star Industries, Inc., ICI Explosives Environmental Company, Associated Industries of Missouri, CP Recycling, Inc., and Safety-Kleen Systems, Inc., stressed the importance of not creating any competitive inequities through changes in the fee structure. Companies have structured their businesses in different ways in response to the current fees; any changes will affect companies in different ways. With regard to cement kilns, representatives from Lone Star Industries, Inc., Holnam, Inc., Continental Cement Company, CP Recycling, Inc., and Safety-Kleen Systems, Inc., noted that the current overcapacity of waste treatment facilities has reduced the profitability of burning waste fuel; any additional fee may force cement kilns from this market. Representatives from the Office of the Missouri Attorney General, Continental Cement Company, American Cyanamid Company, CP Recycling, Inc., and the

Watershed Committee of the Ozarks, however, described some inequities in the current fee structure. Current caps on certain fees favor some companies over others, and the fees associated with transporters appear to be disproportionately small. Further, perhaps fees on transporters should reflect that many emergency responses result from the transport of hazardous materials, and not hazardous waste.

Many witnesses stated that there was often poor alignment between who paid a fee and whether they received the services provided by that fee. Representatives from Lone Star Industries, Inc., Holnam, Inc., Associated Industries of Missouri, Bayer Corporation, American Cyanamid Company, CP Recycling, Inc., and Safety-Kleen Systems, Inc., all noted that, as current waste generators, their fees should fund activities related to the management of current waste. It is inappropriate, however, to ask these current waste generators, all in compliance, managing waste in accordance with regulations, and not responsible for past contamination, to pay for remedial work at abandoned and uncontrolled contaminated sites. Associated Industries of Missouri, Holnam, Inc., American Cyanamid Company, and Safety-Kleen Systems, Inc., stated that, because of the public health benefit involved, it is appropriate to use some general revenue for remediation work at sites where costs cannot be recovered from responsible parties. They noted that this approach is called for in state statutes (Section 260.479, RSMo), but has not been sought recently. In this year's budget, however, the Department of Health has requested general revenue funding for its hazardous waste related activities. Representatives from Holnam, Inc., and Safety-Kleen Systems, Inc., also stated that combining the Hazardous Waste Fund and the Hazardous Waste Remedial Fund would further blur the distinction between management and remedial funds and who is paying for what service.

The representative from CP Recycling, Inc., discussed inefficiencies in the current fee structure, including the difficulty in collecting fees from many generators, especially those from outside the state. Collecting fees from treatment and disposal facilities for waste generated outside the state would be more efficient. The facilities could then pass these costs on to their out-of-state customers and DNR would only have to bill in state generators. This witness added that such a system would require the removal of any fee caps to ensure that there would be no inequities among treatment and disposal facilities that receive their waste in different ways. Continental Cement Company also supported this type of a collection system, but the witness from Safety-Kleen Systems, Inc., stated that removal of fee caps would be unfair to companies that have a branch system to serve many small waste generators, and would be a disincentive for business expansion. Safety-Kleen Systems, Inc., also believed that sunset dates on fees should be maintained because funding needs should decline as contaminated sites are cleaned up.

## **CONCLUSIONS AND RECOMMENDATIONS**

The committee appreciates the efforts of the Hazardous Waste Program of the Department of Natural Resources in testimony, arrangements for site visits, and in promptly supplying requested information. The committee is also indebted to all of the businesses, local governments, and individuals who hosted the committee during the site visits and who provided oral and written testimony.

The committee was encouraged by the cooperative attitude among hazardous waste generators, treatment facilities, DNR, and the general public. Industry should be commended for their efforts in waste reduction and responsible management of generated waste. The cooperative, effective actions by citizens and by DNR should also be applauded, and affected parties are encouraged to take actions necessary to ensure that the state maintains the primacy delegated to it by the federal government in the regulation of hazardous waste.

There is, however, a projected shortfall in funding for the Hazardous Waste Management Program, and several aspects of current activities may benefit from improvement. To ensure effective actions continue and work is improved, the committee has recommendations in three general areas:

### **REMEDIAL ACTION PLAN**

The committee believes that continued, prompt remediation of contaminated sites is essential to protect public health and the environment. To ensure continued advancement toward the goal of remediation of all contamination in the state, the committee recommends that the DNR develop and maintain a continually updated plan with 1-, 5-, and 10-year projections of the assessment, investigation, and remediation of known contaminated sites, including an evaluation of progress made to date and updated estimates of public fund expenditures needed for remaining remedial work. The first plan should be developed and reported to the General Assembly by December 15, 2000; subsequent reports to the General Assembly should be submitted by December 15 each year thereafter. Further, the results of this planning effort should be presented annually by DNR to the General Assembly in January during a joint meeting of the Senate Commerce and Environment Committee and the House Environment and Energy Committee.

### **DEVELOPMENT OF CONTAMINATED SITES**

The committee recognizes the economic benefits of redeveloping remediated sites, but is also concerned about continued effects of known contamination on public health. To more fully assess such effects, the committee recommends that the General Assembly undertake a thorough review of how development occurs in and around known contaminated sites, including procedures of property transactions and the involvement of the private sector and state and local governments.

## **HAZARDOUS WASTE FEE STRUCTURE**

The committee recognizes the need to provide adequate oversight of hazardous waste management activities and to maintain sufficient funding for the DNR Hazardous Waste Program to function effectively and maintain state primacy. Current funding is not adequate for regulating the management of currently generated waste or to ensure prompt remediation of known contaminated sites. Further, the current fee structure appears to contain some inequities and, in some cases, is cumbersome for both the department and affected businesses. The committee believes that it is possible to change the fee structure to provide additional revenue, simplify reporting and collection procedures, and avoid inequities, both among competing businesses and in the alignment of those paying fees with the services provided by those fees.

The committee recommends that the final details of any proposed changes in the fee structure be negotiated in good faith by the affected businesses, DNR, and members of the General Assembly. The following central issues have emerged from the committee's work and should form the basis for those negotiations.

### ***Use of General Revenue***

The use of general revenue for partial funding of the remediation of uncontrolled and abandoned contaminated sites is called for in statute (Section 260.479, RSMo), and may be justified because of the public benefits involved in cleanup of these sites. Many other states use some general revenue to fund remediation work. Such funding, however, should not be viewed as a replacement for vigorously pursuing cost recoveries from potentially responsible parties. There must also be consideration of other budget items that will not be funded as a result of this use of general revenue.

### ***Alignment of Fee Payments and Services Received***

The current system uses fees collected from current generators of hazardous waste as the primary source of state funding for hazardous waste management. Although it is appropriate for current waste generators to bear costs for permit review, inspections, emergency response, and other activities directly related to the management of currently generated waste, having current generators in full compliance fund remediation work at uncontrolled, abandoned contaminated sites is more problematic. Although consolidation of the Hazardous Waste Fund and the Hazardous Waste Remedial Fund could further blur the distinction between current waste management and remediation of abandoned, uncontrolled sites, if done properly fund consolidation may provide an opportunity to achieve better alignment of fee payments and services received. Consolidation or restructuring of the funds may also provide an opportunity to address a current conflict between state and federal law. Federal law requires transporter fees to be used only for licensing costs and emergency response activities, but state law places these fees in the Hazardous Waste Fund and provides revenue for emergency response from the Hazardous Waste Remedial Fund. There should also be consideration of whether transporters of hazardous *materials* and other substances, and not just transporters of hazardous waste, should contribute to funding for environmental emergency response activities.

### ***Other Potential Fee Inequities***

There are several other potential inequities in the fee structure that should be addressed in negotiations. Currently, there are no fees for the registration of generators not currently producing waste, but the department bears significant administrative costs in maintaining these registrations. Minimal fees for small generators are also inadequate to cover administrative costs. Transporter fees, especially those for railroads may be disproportionately small, and may need to be based on the volumes and mileage of waste transported to conform with federal interstate commerce provisions. Negotiations should also consider whether the current fuel blender exemption and fee caps (or removal of fee caps) provide an unfair competitive advantage to some companies.

### ***Change from a Generator-Based Fee Structure to a Disposal-Based Structure***

Changing the current generator-based fee structure to a disposal-based fee structure collected at disposal facilities has the potential to improve efficiency by significantly simplifying current collection and report requirements. Costs can be passed on to customers of the disposal facilities and this system would make the fuel blender exemption issue moot with regard to in-state vs. out-of-state inequities.

### ***Miscellaneous Provisions***

There are several miscellaneous provisions that should be addressed as part of any negotiations on fee restructuring. Current law does not allow cost recovery for some required DNR work at regulated hazardous waste facilities, resulting in a significant cost burden for the department. Current law also does not allow for fee adjustments with inflation, although costs funded by the fees are subject to increases with time. Lastly, as industry continues to make significant progress in waste reduction, consideration must be made for adequate funding of remediation work as waste streams are reduced. The current generator-based fee structure will produce declining revenue as waste production decreases, but any new fee structure should not penalize businesses for progressively practicing waste reduction.

# **APPENDIX A**

## **TEXT OF 1999 HOUSE CONCURRENT RESOLUTION 28**

### **FIRST REGULAR SESSION 90TH GENERAL ASSEMBLY**

#### **Senate Committee Substitute for House Concurrent Resolution No. 28**

WHEREAS, the safe generation, transfer, storage and disposal of hazardous waste is vital to the well-being of the state of Missouri; and

WHEREAS, emergency response to hazardous substance spills and releases, maintenance of contaminated real estate through the hazardous waste registry system, and participation in state and federal cleanups of sites contaminated by hazardous wastes is necessary to protect the health of Missouri's citizens and environment; and

WHEREAS, the Hazardous Waste Fund and the Hazardous Waste Remedial Fund are the primary means of funding the above mentioned activities, and with the balances of these funds falling and in danger of potentially not being able to adequately support necessary services in the future; and

WHEREAS, the hazardous waste generation, transfer, storage and disposal industries which contribute to the Hazardous Waste Fund and Hazardous Waste Remedial Fund enhance the economic well-being of the state of Missouri; and

WHEREAS, the fees imposed on the hazardous waste generation, transfer, storage and disposal industries should be fair and equitable; and

WHEREAS, the Department of Natural Resources and the industry have been unable to reach an agreement as to how to adequately fund the Hazardous Waste Fund and Hazardous Waste Remediation Fund; and

WHEREAS, an in-depth study needs to be conducted to determine what measures need to be taken to ensure that the Hazardous Waste Fund and Hazardous Waste Remedial Fund are sufficient to meet the obligations and provide the required services to the public, environment and the hazardous waste generation, transfer, storage and disposal industries:

NOW, THEREFORE, BE IT RESOLVED by the Missouri House of Representatives of the Ninetieth General Assembly, First Regular Session, the Senate concurring therein, that a joint legislative study committee of the General Assembly be created to be composed of five members of the Senate, to be appointed by the President Pro Tem of the Senate, and five members of the House of Representatives, to be appointed by the Speaker of the House, and that said committee be authorized to function throughout the Ninetieth General Assembly; and

BE IT FURTHER RESOLVED that the committee conduct an in-depth study and make appropriate recommendations concerning appropriate funding of the Hazardous Waste Fund and the Hazardous Waste Remedial Fund; and

BE IT FURTHER RESOLVED that the committee prepare a report, together with its recommendations for any legislative action it deems necessary for submission during the First Regular Session of the Ninety-first General Assembly; and

BE IT FURTHER RESOLVED that the Committee on Legislative Research, Senate Research, and House Research provide such legal, research, clerical, technical, and bill drafting services as the committee may require in the performance of its duties; and

BE IT FURTHER RESOLVED that the actual and necessary expenses of the committee, its members, and any staff personnel assigned to the committee incurred in attending meetings of the committee or any subcommittee thereof, be paid from the Joint Contingent Fund.



# **APPENDIX B**

## **SUMMARY OF SITE VISITS**

### **I. EASTERN: October 12 - 14, 1999**

#### **1. American Cyanamid Company, Palmyra**

American Cyanamid manufactures a variety of herbicides and insecticides used in agriculture. It employs 600 people and has a \$32 million payroll. Programs are in place to recycle and reuse material to minimize waste generation. Generated wastes are treated in four on-site incinerators with computerized monitoring systems. Safety programs are also in place, including risk management planning, on-site emergency response equipment, and a close working relationship with the local emergency planning committee. The company spends \$18-\$20 million annually on environmental controls and has an excellent history of compliance. Annual hazardous waste fees are approximately \$37,000.

#### **2. Continental Cement Company, Hannibal**

Continental Cement operates a wet-process cement kiln and employs 200 people. The facility began using hazardous waste as a fuel supplement for coal in 1986. Currently, 95,000 tons of hazardous waste per year are collected from 85 generators by Missouri Fuel Recycler (MFR), a department of Continental Cement. Use of hazardous waste as a fuel supplement reduces energy costs and is important for the economic viability of the kiln operation. Appropriate kiln operating conditions that ensure emissions compliance were established through use of test burns, and stack gases are monitored continuously. A computerized system monitors and controls kiln operations.

#### **3. Holnam, Inc., and Safety-Kleen Systems, Inc., Clarksville**

Holnam operates a wet-process cement kiln. It employs 200 people and has a \$7 million payroll. The facility began using hazardous waste as a fuel supplement for coal in 1986. Currently, all hazardous waste fuel is provided through a contract with Safety-Kleen Systems. Safety-Kleen collects the waste from many small generators and blends the fuel on site. Use of 16 tons per hour of hazardous waste as a fuel supplement reduces energy costs and is important for the economic viability of the kiln operation. Appropriate kiln operating conditions that ensure emissions compliance were established through use of test burns, and stack gases are monitored continuously. A computerized system monitors and controls kiln operations.

#### **4. St. Louis Arena Brownfields Redevelopment Site, St. Louis**

The St. Louis Arena opened as a sports complex in 1929 and closed in 1994. The site is an excellent location for redevelopment. The Land Clearance for Redevelopment Authority sought a developer when the facility closed, but redevelopment was impeded by real and perceived health threats from possible lead, asbestos, mercury, and PCB (polychlorinated biphenyls) contamination, as well as two large underground heating oil storage tanks of unknown integrity. The authority applied for grants and tax incentives through the Department of Economic Development's Brownfields Redevelopment Program, which requires oversight by

DNR's Voluntary Cleanup Program. The site was accepted into the program in March, 1998. Environmental remediation is now being performed at the site, with plans for the development of a large office complex. Tax credits will equal the cost of the remediation work.

#### **5. Hubert Wheeler School Cleanup Site, St. Louis**

Beginning in 1970, this facility was operated by the Department of Elementary and Secondary Education as a school for severely disabled students. Earlier, the site contained a pit that was used for waste disposal into the 1960's. A black tar-like substance containing carcinogenic PAHs (polycyclic aromatic hydrocarbons) was observed emanating from the ground, resulting in closure of the school in 1995. The Office of Administration assumed management of the site and obtained appropriations for remediation, which began in 1998 in conjunction with DNR and the Department of Health. Currently, remediation is continuing, with plans to redevelop the site for use as state offices.

#### **6. Former TRW, Inc., Facility, St. Louis**

The soil and groundwater at this manufacturing facility, currently operated by the Dana Corporation, were contaminated with various compounds, including TCE (trichloroethylene), chromium, benzene, toluene, xylene, oil, and grease, during past operations by TRW, Inc. The site was proposed for the Registry in 1991; this led to an agreement between TRW and DNR to clean up the site. Soil and groundwater remediation was implemented in 1992. Contaminated soil has been removed, and a groundwater recovery and treatment system was installed to remove oil and volatile compounds. To date, more than 20 million gallons of groundwater have been treated.

## **II. WESTERN: November 29 - December 1, 1999**

#### **1. Jasper County National Priorities List Site, Joplin**

This Superfund site includes eleven distinct areas. Mining, milling, and smelting operations that operated from the mid-1800's to the late 1950's caused extensive contamination with heavy metals. EPA and DNR are overseeing remedial activities, including removal of contaminated soil from over 2,000 residential yards and supplying bottled water for residents with contaminated wells. Construction of a drinking water system is planned, as is restoration of approximately 7,000 acres of mined lands and affected streams. Potentially responsible parties have funded some of the remediation work; there are ongoing negotiations with those parties to fund some remaining work. Costs that cannot be attributed to responsible parties are paid with federal and state funds. The state has a contract with EPA to supply \$3 million in matching funds for the residential yard work; other costs are currently being negotiated. A community advisory group has been very active during the remediation process.

#### **2. Newton County Proposed National Priorities List Site, Joplin Area**

During routine groundwater sampling by the Department of Health in 1991, extensive contamination with TCE was discovered at this site. Affected residents of the villages of Silver Creek and Saginaw were supplied with bottled water; later a public drinking water system was constructed. After extensive negotiations, costs for these remedial actions were paid by FAG

Bearings, a potentially responsible party. FAG is currently developing a plan to remediate the contamination on their property. A remedial investigation and feasibility study of the groundwater contamination will begin soon. The site has been proposed for the National Priorities List to ensure that Superfund moneys will be available for this study and any groundwater remediation work if costs cannot be recovered from responsible parties.

### **3. International Paper Company, Joplin**

International Paper has operated a wood treatment plant in Joplin since 1930. Until 1985, surface impoundments were used for creosote and pentachlorophenol recovery, resulting in groundwater contamination beneath the site. In 1990, International Paper installed a pumping system to maintain hydraulic control of the groundwater and has continued monitoring around the site. Sludges and heavily contaminated soils from the impoundments were removed and incinerated in 1986. Remaining affected soils were placed in four lined landfarms for bioremediation; the landfarms include roofs and leachate collection systems. International Paper now has a request pending to cap the landfarms and construct buildings using the existing roofs.

### **4. Pools Prairie Site, Neosho**

This Superfund site includes two areas of residential well TCE contamination. Four sites on the former Camp Crowder facility that were used for jet and rocket engine manufacturing and testing have been identified as sources of the contamination. The U.S. Army Corps of Engineers has been providing bottled water to residents since 1995, and a drinking water supply system is being constructed. Interim measures have been implemented to reduce further contaminant migration while evaluations of remedial actions are being conducted. Site activities are being carried out by the potentially responsible parties in accordance with agreements with EPA and DNR. A community advisory group has been very active during this project.

### **5. EFCO Corporation, Monett**

EFCO produces aluminum windows and storefronts; it employs 1,400 people and has a \$35 million payroll at this facility. Annual environmental costs exceed \$1.4 million, with state hazardous waste fees of approximately \$10,000. The company generates hazardous waste in painting operations and pretreatment of metal finishing, and is considered a large-quantity generator. In 1997, a DNR inspection revealed numerous hazardous waste management violations, several of which were referred to the Attorney General's Office for compliance assistance. The company has now achieved compliance in all but one area, and is developing a plan for correction of that issue. In 1999, EFCO reported a release of sodium hydroxide that required remediation by a private contractor.

### **6. Loren Cook Company, Springfield**

Loren Cook fabricates custom air-moving equipment and employs 650 people. It recently received ISO 9001 certification. Although most painting of manufactured units is accomplished with a powder coat process that produces no waste, the company does generate small quantities of waste in cleaning solvents, floor sweepings and liquid paint. Typically, one 55-gallon drum is filled per month; materials are collected by Safety-Kleen Systems, Inc. As a small-quantity generator, the company pays approximately \$45 annually in hazardous waste fees.

## **7. Nitric Acid Spill Site / Sunbelt Environmental Services, Lebanon**

In August, 1999, an Elliot Truck Line vehicle carrying 43,900 pounds of nitric acid to Dyno Nobel, Inc., in Carthage developed a leak near Lebanon on Interstate 44. The leak resulted in a small grass fire and large acid vapor cloud. The Lebanon Rural Fire Protection District extinguished the fire; the Highway Patrol contacted DNR's Environmental Emergency Response Unit for further action. Other agencies at the scene included the Department of Transportation, the Fort Leonard Wood Hazardous Materials Response Team, the Camden County Hazardous Materials Response Unit, and the Laclede County Local Emergency Planning Committee. A DNR on-scene coordinator worked with local authorities and mobilized state hazardous materials contractors, Haz-Mat Response and Sunbelt Environment Services, to coordinate off-loading of the truck and to remediate the spill.

# **APPENDIX C**

## **SUMMARY OF INDIVIDUAL TESTIMONY**

### **I. ORAL TESTIMONY: December 10, 1999 (\* Also Submitted Written Materials)**

#### **1. Jerald Pelker, Scott Hughes; Associated General Contractors - Eastern Missouri Laborers' Joint Training Fund\***

This program provides apprenticeships and training for over 5,500 AFL-CIO construction craft laborers working for over 800 union contractors, including those offering environmental abatement and remediation services. All programs are accredited or approved by the appropriate regulatory agencies. Trained personnel should be used for all environmental abatement work, both to protect public health and worker safety, and to ensure that taxpayers' money is spent efficiently. It is also important to provide state agencies with sufficient funds and appropriate statutory authority for regular inspections and oversight of remediation projects.

#### **2. Norris Johnson; Lone Star Industries, Inc.\***

Lone Star Industries employs 185 people and produces 1.3 million tons of cement per year in Cape Girardeau. Fuel is a significant cost component of cement production; their kiln uses 26 tons of coal per hour. Lone Star began using hazardous waste in 1992 as a partial fuel replacement and currently burns waste to displace 4.5 tons of coal per hour. The three cement companies that burn hazardous waste have each structured their businesses differently; any changes in the current fee structure could therefore affect each company in different ways. Lone Star recognizes the need to increase funding for DNR's Hazardous Waste Program, but opposes any changes in the fee structure that would provide an unfair advantage to a competitor or make the use of hazardous waste fuel uneconomical. Cement kilns provide an environmentally sound method of disposing of hazardous waste, an activity that is not related to contamination at uncontrolled abandoned sites. Cement companies should therefore not bear significant costs for funding remediation projects at these sites.

#### **3. Jerry Epperson, Stanton Ehinger; Holnam, Inc.\***

Holnam employs 200 people and produces 1.3 million metric tons of cement per year in Clarksville. Cement production requires considerable energy; their kiln uses 38 to 40 tons of coal per hour. Holnam began using hazardous waste as a fuel supplement in 1986. Fuel is now provided through a contract with Safety-Kleen, and helps the plant maintain economic viability. Holnam believes that regulation of hazardous waste management activities at cement kilns should be funded through fees, and would agree to negotiate new fees if the current fee structure does not provide adequate revenue for this purpose. Remedial activities at contaminated sites not associated with current generators, recyclers, blenders, and cement kilns should, however, be funded, if not by responsible parties, then by general revenue because of the public health benefit involved. Hazardous waste management and remedial activities should be separately funded. Excessive fees, coupled with pending clean air requirements, could force cement kilns to stop burning hazardous waste, resulting in reductions in fee revenue.

#### **4. David Wallace; ICI Explosives Environmental Company\***

Since 1995, ICIEEC has operated an incinerator that disposes of explosive materials in an environmentally sound manner. Customers include the U.S. Army and the oil, automotive airbag, and commercial explosives industries. Environmental fees on waste explosives are paid by these customers; ICIEEC also pays fees for generated ash. The process is not yet profitable and competes with open burning; any fee increases will further erode potential profitability and divert material to competitors in other states.

#### **5. John White, Greg Haug; Continental Cement Company\***

Continental Cement is an independent Missouri-owned company in Hannibal with 200 employees. Approximately 95,000 tons of hazardous waste per year are collected from 85 generators and used as a fuel supplement in their cement kiln. Reuse of waste in cement kilns is environmentally sound, allows cement kilns to reduce their energy costs, and provides fee revenue for DNR's Hazardous Waste Program. The current hazardous waste fee structure, however, makes waste from out-of-state generators that is blended as fuel exempt from category taxes. This places Missouri generators at an economic disadvantage and reduces fee revenue for the state. Continental Cement would support a fee on all commercial waste reused or disposed at Missouri facilities if the fee had no cap and was competitive with fees charged in neighboring states.

#### **6. Norb Plassmeyer; Associated Industries of Missouri\***

Associated Industries has been working for several years with its members, DNR, and the General Assembly in an effort to resolve the hazardous waste funding issue. Since the original law was written, waste streams have been reduced significantly and cement kilns have emerged as an important entity in the reuse of waste. Associated Industries believes that these changes should be considered in resolving the issue, as should the amount and equitability of fees paid by individual businesses. Further, because remediation of old contaminated sites has a significant public benefit, use of general revenue funding for remediation work is appropriate. Some use of general revenue is called for in Section 260.479, but has not been sought in the appropriations process recently.

#### **7. Joseph Bindbeutel; Office of the Missouri Attorney General**

The Office of the Attorney General receives approximately \$250,000 per year to serve as legal counsel to the Hazardous Waste Commission and to pursue enforcement activities, recover remediation costs from responsible parties, handle permit appeals, and do other litigation. Over \$7 million in costs and penalties has been recovered to date. The goals of enforcement activities by the state are to return violators to compliance and, through penalties, to remove the competitive advantage that the violator gained. Federal enforcement is often more oriented toward setting precedents; loss of state primacy in hazardous waste management would not be desirable for Missouri businesses. The office supports the equitable distribution of fees to cover costs of proper hazardous waste management and to maintain primacy. Transporters, especially railroads, have been responsible for a significant share of remediation work, but their fees are disproportionately small.

#### **8. Warren Davis; Bayer Corporation**

The Bayer Corporation currently pays approximately \$46,000 in hazardous waste fees. The company considers it appropriate to pay their fair share, but not more in relation to other companies. Businesses that are in compliance should also not be asked to pay for remediation costs that can be attributed to responsible parties.

#### **9. J. Brad Willett; American Cyanamid Company**

There are two fee-supported funds with different purposes: the Hazardous Waste Fund, which is oriented toward the management of waste currently being generated, and the Hazardous Waste Remedial Fund, which is oriented toward remediation of existing contaminated sites and emergency response. Remedial activities at existing sites have little relation to current waste generation and management, but have a significant public benefit. American Cyanamid believes that use of general revenue for these activities is therefore appropriate. Transporters should also be included in the fee structure. Over 40% of expenditures from the remedial fund are used for emergency response, and much of this is related to transport of both hazardous materials and hazardous waste.

#### **10. Pamela Rice Walker; Missouri Department of Health\***

The Department of Health receives approximately \$230,000 per year from the Hazardous Waste Remedial Fund for annual health assessments at hazardous waste registry sites, sampling private wells around waste sites for groundwater contamination, review of site investigations for newly discovered sites, and review of health profiles for communities surrounding active waste-generating facilities. There is a need to improve health monitoring of communities around waste sites, begin surveillance for diseases not currently monitored, including autoimmune diseases, and to enhance reporting by health care professionals of certain medical conditions. This year, the department is seeking \$330,000 in general revenue for these ongoing and expanded activities.

#### **11. T. Terry Tousey; CP Recycling, Inc.\***

CP Recycling offers permitting, engineering, and marketing services to cement kilns burning hazardous waste. When originally established, hazardous waste fees were intended to provide revenue for emergency response and remediation, and also to be an incentive for waste reduction, in that the fee rate increases with the amount of waste generated. An exemption was established for the category tax on blended fuel used for energy recovery. This exemption has allowed the cement industry to reduce energy costs and remain competitive, and should not be repealed. New fees on treatment facilities are also not appropriate. The overcapacity of treatment facilities has reduced profitability of burning waste fuel; any additional fee may force cement kilns from this market. Further, use of fee revenue from treatment facilities for remediation of old contaminated sites is not appropriate in that current proper handling of waste did not cause the contamination. Lastly, the current fee structure requires collection methods that are not efficient for either industry or DNR. Collecting fees for out-of-state generators at treatment facilities like cement kilns would be much more efficient; the treatment facilities could then recover these costs from the generators. Such a system would, however, require elimination of fee caps to ensure that there would be no inequities among treatment facilities that receive their waste in different ways.

## **II. WRITTEN TESTIMONY: In Order Received**

### **1. David Fraley; City Utilities of Springfield**

As a drinking water utility, City Utilities is particularly aware of the importance of protecting drinking water supplies from chemical contamination. The potential for problems associated with transportation incidents requires a constant state of preparedness, and contaminated sites are still being discovered. City Utilities therefore supports maintaining funding for the DNR Hazardous Waste Program at appropriate levels to ensure timely, effective responses to contamination.

### **2. Loring Bullard; Watershed Committee of the Ozarks**

The Watershed Committee is a citizen-based advisory group established to protect sources of public drinking water. Uncontrolled waste sites and accidental releases of hazardous substances will continue to be serious threats to drinking water supplies. The committee strongly supports continued viable funding of the DNR Hazardous Waste Program for both remediation and emergency response work. Basing the funding for emergency response only on waste generation, however, will result in declining revenue as businesses practice waste reduction and elimination. To ensure sustained adequate funding, fee restructuring should be addressed in the broader realm of hazardous materials use and transportation.

### **3. Donald L. Jones; Safety-Kleen Systems, Inc.**

Safety-Kleen is the world's largest recycler of solvents and used oil, and collects waste from many small businesses. The company employs over 100 people in Missouri; its facility in Clarksville blends collected waste for use as fuel in Holnam's cement kiln. Safety-Kleen supports an equitable fee structure to provide for adequate regulation of generators, transporters, and treatment and disposal facilities. The burden for funding for remedial activities, however, should not be borne solely by current operators that did not cause the contamination. Use of some general revenue for remedial work is appropriate because of the public health benefit involved. To keep the distinction between regulation of current activities and remediation work clear, funding for these tasks should be kept separate. A sunset date for fees used for remedial work should also be maintained because the need for remediation should decline as the number of contaminated sites is reduced. Lastly, Safety-Kleen does not support assessing a new fee without a cap on hazardous waste treatment and disposal facilities. This fee structure would penalize companies like Safety-Kleen that have a branch system to serve many small generators, and would be a disincentive for business expansion.



